

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Respondent,

v.

JEFF CARPOFF,

Movant.

No. 2:20-cr-0017 DAD KJN P

ORDER

On January 9, 2024, movant, a federal prisoner proceeding pro se, filed a motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255, raising four claims for relief, and including an exhibit A; the motion was signed on December 27, 2023. (ECF No. 84.) Prior to the receipt of such motion, movant filed a document purportedly adding claim six to his motion. (ECF No. 81.) On January 8, 2024, another separate document was filed, purportedly adding claim five. (ECF No. 83.) Claim five also includes an exhibit B.

“A motion may be considered ‘abusive’ only when the applicant ‘(1) made a conscious decision deliberately to withhold [the new grounds] from a prior [motion]; (2) is pursuing needless piecemeal litigation; or (3) has raised the claims only to vex, harass, or delay.’” Molina v. Rison, 886 F.2d 1124, 1127 (9th Cir. 1989) (quoting Neuschafer v. Whitley, 860 F.2d 1470, 1474 (9th Cir. 1988).

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1 Normally, parties (including pro se prisoners) are required to include all claims in one
2 motion or pleading. Here, it appears that movant is being assisted by another inmate. (ECF No.
3 84 at 16.) All of the filings were submitted to the court within a short period of time, and it does
4 not appear that the additional claims were deliberately withheld, or that movant is pursuing
5 needless piecemeal litigation or raised the additional claims only to harass or delay. Therefore, in
6 the interest of judicial economy, and to make clear to respondent and reviewing courts the claims
7 being challenged herein, the undersigned orders that claims five and six be appended to the initial
8 petition so that all six of petitioner's claims are considered in one motion. That said, movant is
9 cautioned that no additional claims may be separately filed. If he intends to add claims, he must
10 file a motion to amend and provide a separate amended motion that includes all of his claims.

11 Fed. R. Civ. P. 15.

12 Accordingly, IT IS HEREBY ORDERED that:

13 1. The Clerk of the Court is directed to: (a) Add movant's January 8, 2024 filing (ECF
14 No. 83 at 1-3) as claim five into the January 9, 2024 motion (ECF No. 84); and (b) Add movant's
15 January 5, 2024 filing (ECF No. 81 at 1-3) as claim six into the January 9, 2024 motion (ECF No.
16 84).

17 2. Movant is cautioned that no additional claims will be accepted unless accompanied by
18 a properly filed motion to amend as set forth above.

19 Dated: February 1, 2024

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21 KENDALL J. NEWMAN
22 UNITED STATES MAGISTRATE JUDGE

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